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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,034	04/06/2000	Eduardo Cue	P2512/560	9025
21839	7590	10/21/2003	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			ZURITA, JAMES H	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/545,034	CUE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James Zurita	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 July 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-71 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-71 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Response to Amendment***

By Amendment A, filed 30 July 2003, applicant cancelled claim 72 and amended claims 1, 10, 11, 23, 24, 26, 27, 34, 39, 41, 51, 54-56, and 69-71 have been amended.<sup>1</sup> 55 claims are unchanged.

Claims 1 - 71 are pending and will be examined.

### ***Response to Arguments***

Applicant's arguments filed 30 July 2003 have been fully considered but they are not persuasive.

Applicant argues that amended claims 1, 26, 41 and 56 are not anticipated or rendered obvious by either Blinn or Henson because neither reference teaches or suggests that the administrator computer is not associated with the vendor.

Applicant states that the administrator computer for the group has no connection to the vendor. This allows the group to independently set prices and options for the [vendor's] products sold on the vendor's web site. This independence allows the administrator to provide for the needs of the group without undue influence from the vendor.

In response to these arguments, neither Blinn nor Henson restrict how their client/system functions may be distributed among various parties. It would have been

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<sup>1</sup> Please note that claim 34 is shown as (original). This appears to be an oversight, since claim 34 is amended.

obvious to one of ordinary skill in the art at the time the invention was made to allocate responsibilities and functions according to business models and needs.

Further, an analysis of the various claims as a whole reveals that nonfunctional descriptive material is being recited. A determination of how this descriptive material is being used in the claim as a whole reveals that the material carries little patentable weight and does not patentably distinguish the invention from prior art.

### ***Drawings***

The drawings were received on 30 July 2003. These drawings are approved.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 26, 41 and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims were amended to “custom-store-administrator computer not associated with the vendor.”

The custom-store-administrator computer handles configuration data and databases that, among other things, enables creation of pages with vendor product information. For example:

- configuration data allows the creation of virtual bundles of *products* for purchase from the custom web page (claim 7).
- configuration data allows the prevention of the selection of certain *products* by group members from the custom web page (claim 8).
- configuration data affects the *product* display (claim 9).
- configuration data affects the custom store web page *product* display order. (claim 10)

For purposes of this examination, the term “not associated” will be given its broadest reasonable interpretation to include any type of association.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinn (US Patent 6,058,373) in view of Henson (US Patent 6,167,383).

An analysis of the claims as a whole reveals that nonfunctional descriptive material is being recited. A determination of how this descriptive material is being used in the claim as a whole reveals that the material carries little patentable weight and does not patentably distinguish the invention from prior art.

In claim 1, for example, the term “...adapted to produce a custom store web page for a vendor...” is claim 1 is inferentially recited. The term “...not associated ...and being associated with ...for the group, wherein...” is similarly non functional descriptive material.

In claim 41, for example, the term "...as a result of ....not associated with a vendor..." is not positively recited and is not considered part of the claim, since it appears to be a prelude to the claim. The term "...the custom store administrator computer being associated with a custom store administrator for a group other than the vendor..." carries little patentable weight. Moreover, the term "...[not] associated..." is a broad recitation and may include contractual obligations, licensing, reseller and other relationships.

Again in claim 41, the term "...the custom-store web page being constructed using data from the database, the [*database?*] data including the configuration data..." is indefinite since configuration data is stored in the database and it is not clear what is meant by [*database?*] data, and whether this is data that is different from other data.

Similarly, the term "..the client being associated with ....group members; and..." is not positively recited and is an inferential recitation that carries little patentable weight. Further, the phrase "...*usable to arrange...*" is an intended use recitation.

Blinn discloses the limitations of applicants' claims, and permits merchants, groups and organizations to create customized virtual stores on the Internet from models and templates stored in a server's databases. The customized web pages provide a virtual store with its own unique look and feel, as determined by the merchant's administrator.

Administrators may access and update store fronts from their computers, using the HTTP protocol, which transmits URL information from clients to a centralized server (see at least Col. 6, line 20-Col. 7, line50). Administrators use server software and

merchant data to instantiate web pages without vendor input. Configuration data permits administrators to define properties and relationships for products and how the products are displayed on a custom store's pages.

Product properties may include entries for each item, including quantity, color, size and models, item discount, item price, etc. (see at least Col. 2, lines 19-28). Blinn discloses the use of "product families", that is, products that may be bundled together for marketing purposes, creating what applicants refer to as virtual bundles.

Blinn discloses that security and access to various environments (production, development and post-development environments) may be determined via a portion of the URL. See at least Col. 14, line 55 - Col. 15, line 54.

Blinn *does not* specifically disclose that groups that use his invention may include colleges and universities. Henson allows customized web stores to identify what he refers to as "customer sets", according to what link a customer executed to get to the online store. A store's configuration data may be used to determine what part of an online store a customer gets to see. Customer sets, according to Henson, may include individual customers, businesses, organizations, federal government, etc. See at least Col. 14, lines 19-61.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include colleges and universities among the groups that create customized web stores. One of ordinary skill in the art at the time the invention was made would have been motivated to include colleges and universities among the groups that may create customized web stores for the obvious reason that,

like government groups, educational organizations may wish to standardize hardware and software that is used by their students. This tendency is very obvious when one registers for a course. For example, students in a calculus course would normally be asked to purchase a specific textbook. While it may be possible to attend classes and learn with another textbook, or a different edition of the same textbook, both students and teachers would suffer from the lack of standardization.

*Neither Blinn nor Henson* use the term “non-existent” to describe aspects of his inventory. Henson discloses a validation warning module, which provides customers with warnings concerning product compatibility and upgrade issues. Henson also describes dynamically setting flags that identify critical properties of particular products, such as when a product requires a long lead-time. See at least Col. 8, line 7-Col. 9, line 8. Compatibility refers to the degree to which a computer, an attached device, a data file or a program can work with or understand the same commands, formats or language as another.<sup>2</sup>

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include software that checks and identifies products that are non-existent (i.e., no longer available). One of ordinary skill in the art at the time the invention was made would have been motivated to include software that checks and identifies products that are non-existent for the obvious reason that selling non-existent or incompatible products may lead to customer dissatisfaction and loss of business.

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<sup>2</sup> Definition of Compatibility, MICROSOFT PRESS Computer Dictionary.

Neither Blinn nor Henson teach the specific limitations such as that the custom-store web page being associated with and for the use of a group *other than* the vendor, or that the custom-store web page being constructed using data from a database.

Neither Blinn nor Henson specifically state that the custom-store-administrator computer may *not be associated with the vendor*

However, the specific relationship between vendor and custom store administrator computer does not patentably distinguish the claimed system. Further, the recited statement of intended use, that the custom-store-administrator computer is adapted to provide configuration data to the server system, and that the server system being adapted to use the configuration data to arrange at least a portion of the custom-store web page for the use of group members, the configuration data being stored in the database do not patentably distinguish the claimed system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt a client machine such as custom-store administrator computer in the system taught by Blinn and Henson because the subjective interpretation of the use does not patentably distinguish the claimed invention.

Neither Blinn nor Henson expressly show that a custom-store-administrator computer is associated with a custom-store administrator for a group *other than* the vendor, and that the configuration data may be used to arrange at least a portion of a vendor's custom-store web page for the use of group members.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The storing and

producing steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to receive and store from a client computer any type of data and produce a custom-store web page because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8:30 am to 5:00 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JT  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
15 October 2003



WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
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